

1 Joseph S. May SBN 245924
2 LAW OFFICE OF JOSEPH S. MAY
3 1388 Sutter Street, Suite 810
4 San Francisco, CA 94109
5 Tel: (415) 781-3333
6 Fax: (415) 707-6600
7 joseph@josephmaylaw.com

8 Brian Gearinger SBN 146125
9 GEARINGER LAW GROUP
10 740 Fourth Street
11 Santa Rosa, CA 95404
12 Tel: (415) 440-3102
13 brian@gearingerlaw.com

14 Attorneys for Plaintiffs
15 AASYLEI LOGGERVALE,
16 AASYLEI HARDGE-LOGGERVALE, and
17 AAOTTAE LOGGERVALE

18
19
20
21
22
23
24
25
26
27
28
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO-OAKLAND DIVISION

29 AASYLEI LOGGERVALE; AASYLEI
30 HARDGE-LOGGERVALE; and
31 AAOTTAE LOGGERVALE,

32 Plaintiffs,

33 v.

34 COUNTY OF ALAMEDA; STEVEN
35 HOLLAND; MONICA POPE; KEITH
36 LEEPER; ANTHONY DeSOUSA;
37 and DOES 1 to 50, inclusive,

38 Defendants.

39 CASE NO.

40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
5510
5511
5512
5513
5514
5515
5516
5517
5518
5519
5520
5521
5522
5523
5524
5525
5526
5527
5528
5529
5530
5531
5532
5533
5534
5535
5536
5537
5538
5539
55310
55311
55312
55313
55314
55315
55316
55317
55318
55319
55320
55321
55322
55323
55324
55325
55326
55327
55328
55329
55330
55331
55332
55333
55334
55335
55336
55337
55338
55339
55340
55341
55342
55343
55344
55345
55346
55347
55348
55349
55350
55351
55352
55353
55354
55355
55356
55357
55358
55359
55360
55361
55362
55363
55364
55365
55366
55367
55368
55369
55370
55371
55372
55373
55374
55375
55376
55377
55378
55379
55380
55381
55382
55383
55384
55385
55386
55387
55388
55389
55390
55391
55392
55393
55394
55395
55396
55397
55398
55399
553100
553101
553102
553103
553104
553105
553106
553107
553108
553109
553110
553111
553112
553113
553114
553115
553116
553117
553118
553119
553120
553121
553122
553123
553124
553125
553126
553127
553128
553129
553130
553131
553132
553133
553134
553135
553136
553137
553138
553139
553140
553141
553142
553143
553144
553145
553146
553147
553148
553149
553150
553151
553152
553153
553154
553155
553156
553157
553158
553159
553160
553161
553162
553163
553164
553165
553166
553167
553168
553169
553170
553171
553172
553173
553174
553175
553176
553177
553178
553179
553180
553181
553182
553183
553184
553185
553186
553187
553188
553189
553190
553191
553192
553193
553194
553195
553196
553197
553198
553199
553200
553201
553202
553203
553204
553205
553206
553207
553208
553209
553210
553211
553212
553213
553214
553215
553216
553217
553218
553219
553220
553221
553222
553223
553224
553225
553226
553227
553228
553229
553230
553231
553232
553233
553234
553235
553236
553237
553238
553239
553240
553241
553242
553243
553244
553245
553246
553247
553248
553249
553250
553251
553252
553253
553254
553255
553256
553257
553258
553259
553260
553261
553262
553263
553264
553265
553266
553267
553268
553269
553270
553271
553272
553273
553274
553275
553276
553277
553278
553279
553280
553281
553282
553283
553284
553285
553286
553287
553288
553289
553290
553291
553292
553293
553294
553295
553296
553297
553298
553299
553300
553301
553302
553303
553304
553305
553306
553307
553308
553309
553310
553311
553312
553313
553314
553315
553316
553317
553318
553319
553320
553321
553322
553323
553324
553325
553326
553327
553328
553329
553330
553331
553332
553333
553334
553335
553336
553337
553338
553339
553340
553341
553342
553343
553344
553345
553346
553347
553348
553349
553350
553351
553352
553353
553354
553355
553356
553357
553358
553359
553360
553361
553362
553363
553364
553365
553366
553367
553368
553369
553370
553371
553372
553373
553374
553375
553376
553377
553378
553379
553380
553381
553382
553383
553384
553385
553386
553387
553388
553389
553390
553391
553392
553393
553394
553395
553396
553397
553398
553399
553400
553401
553402
553403
553404
553405
553406
553407
553408
553409
553410
553411
553412
553413
553414
553415
553416
553417
553418
553419
553420
553421
553422
553423
553424
553425
553426
553427
553428
553429
553430
553431
553432
553433
553434
553435
553436
553437
553438
553439
553440
553441
553442
553443
553444
553445
553446
553447
553448
553449
553450
553451
553452
553453
553454
553455
553456
553457
553458
553459
553460
553461
553462
553463
553464
553465
553466
553467
553468
553469
553470
553471
553472
553473
553474
553475
553476
553477
553478
553479
553480
553481
553482
553483
553484
553485
553486
553487
553488
553489
553490
553491
553492
553493
553494
553495
553496
553497
553498
553499
553500
553501
553502
553503
553504
553505
553506
553507
553508
553509
553510
553511
553512
553513
553514
553515
553516
553517
553518
553519
553520
553521
553522
553523
553524
553525
553526
553527
553528
553529
553530
553531
553532
553533
553534
553535
553536
553537
553538
553539
553540
553541
553542
553543
553544
553545
553546
553547
553548
553549
553550
553551
553552
553553
553554
553555
553556
553557
553558
553559
553560
553561
553562
553563
553564
553565
553566
553567
553568
553569
553570
553571
553572
553573
553574
553575
553576
553577
553578
553579
553580
553581
553582
553583
553584
553585
553586
553587
553588
553589
553590
553591
553592
553593
553594
553595
553596
553597
553598
553599
553600
553601
553602
553603
553604
553605
553606
553607
553608
553609
553610
553611
553612
553613
553614
553615
553616
553617
553618
553619
553620
553621
553622
553623
553624
553625
553626
553627
553628
553629
553630
553631
553632
553633
553634
553635
553636
553637
553638
553639
553640
553641
553642
553643
553644
553645
553646
553647
553648
553649
553650
553651
553652
553653
553654
553655
553656
553657
553658
553659
553660
553661
553662
553663
553664
553665
553666
553667
553668
553669
553670
553671
553672
553673
553674
553675
553676
553677
553678
553679
553680
553681
553682
553683
553684
553685
553686
553687
553688
553689
553690
553691
553692
553693
553694
553695
553696
553697
553698
553699
553700
553701
553702
553703
553704
553705
553706
553707
553708
553709
553710
553711
553712
553713
553714
553715
553716
553717
553718
553719
553720
553721
553722
553723
553724
553725
553726
553727
553728
553729
553730
553731
553732
553733
553734
553735
553736
553737
553738
553739
5537340
5537341
5537342
5537343
5537344
5537345
5537346
5537347
5537348
5537349
5537350
5537351
5537352
5537353
5537354
5537355
5537356
5537357
5537358
5537359
5537360
5537361
5537362
5537363
5537364
5537365
5537366
5537367
5537368
5537369
55373610
55373611
55373612
55373613
55373614
55373615
55373616
55373617
55373618
55373619
55373620
55373621
55373622
55373623
55373624
55373625
55373626
55373627
55373628
55373629
55373630
55373631
55373632
55373633
55373634
55373635
55373636
55373637
55373638
55373639
55373640
55373641
55373642
55373643
55373644
55373645
55373646
55373647
55373648
55373649
55373650
55373651
55373652
55373653
55373654
55373655
55373656
55373657
55373658
55373659
55373660
55373661
55373662
55373663
55373664
55373665
55373666
55373667
55373668
55373669
55373670
55373671
55373672
55373673
55373674
55373675
55373676
55373677
55373678
55373679
55373680
55373681
55373682
55373683
55373684
55373685
55373686
55373687
55373688
55373689
55373690
55373691
55373692
55373693
55373694
55373695
55373696
55373697
55373698
55373699
553736100
553736101
553736102
553736103
553736104
553736105
553736106
553736107
553736108
553736109
553736110
553736111
553736112
553736113
553736114
553736115
553736116
553736117
553736118
553736119
553736120
553736121
553736122
553736123
553736124
553736125
553736126
553736127
553736128
553736129
553736130
553736131
553736132
553736133
553736134
553736135
553736136
553736137
553736138
553736139
553736140
553736141
553736142
553736143
553736144
553736145
553736146
553736147
553736148
553736149
553736150
553736151
553736152
553736153
553736154
553736155
553736156
553736157
553736158
553736159
553736160
553736161
553736162
553736163
553736164
553736165
553736166
553736167
553736168
553736169
553736170
553736171
553736172
553736173
553736174
553736175
553736176
553736177
553736178
553736179
553736180
553736181
55373618

INTRODUCTION

1. Plaintiffs, a Black mother and her two teenage daughters, were sitting in their car outside of a Starbucks in Castro Valley at the end of an overnight drive from Nevada to get the daughters to their college classes on time. Two white Alameda County Sheriff deputies approached the vehicle ostensibly as part of an investigation into car burglaries committed by unidentified *Black men* in the preceding months. Without reasonable suspicion that any of the Plaintiffs were involved in any criminal activity, the deputies arrested Plaintiffs, handcuffed them, forced them into the back of patrol vehicles, and searched them and their possessions.

2. Sadly, the abusive treatment Plaintiffs endured for merely existing while Black is not unusual or surprising. This civil rights action seeks to vindicate Plaintiffs' constitutional and statutory rights and hold the deputies and their department accountable for biased policing practices and the policies (or absence of policies) that resulted in these practices.

PARTIES

3. Plaintiff Aasylei Loggervale is an adult over the age of eighteen, and at all times relevant hereto, was and is a resident of the State of Nevada. For sake of clarity, she will be referred to as Ms. Loggervale throughout this Complaint.

4. Plaintiff Aasylei Hardge-Loggervale (hereafter “Aasylei”) is an adult over the age of eighteen and, at all times relevant hereto, was and is a resident of Alameda County, California. Aasylei is one of Ms. Loggervale’s daughters. At the time of the incident giving rise to this action, Aasylei was nineteen years old.

5. Plaintiff Aaottae Loggervale (hereafter “Aaottae”) is an adult over the age of eighteen and, at all times relevant hereto, was and is a resident of Alameda County, California. Aaottae, also one of Ms. Loggervale’s daughters, was seventeen years old at the time of the incident giving rise to this action.

6. Defendant County of Alameda is political subdivision of the State of California, which operates, oversees, and manages the Alameda County Sheriff's Office ("ACSO").

7. Defendant Steven Holland is, and at all relevant times was, a deputy with the ACSO. In doing the things herein alleged, Defendant Holland was acting under color of state law and in

1 the course and scope of his employment with Defendant County of Alameda. Defendant Holland
2 is sued in his individual capacity.

3 8. Defendant Monica Pope is, and at all relevant times was, a deputy with the ACSO. In
4 doing the things herein alleged, Defendant Pope was acting under color of state law and in the
5 course and scope of her employment with Defendant County of Alameda. Defendant Pope is
6 sued in her individual capacity.

7 9. Defendant Keith Leeper is, and at all relevant times was, a deputy with the ACSO. In
8 doing the things herein alleged, Defendant Leeper was acting under color of state law and in the
9 course and scope of his employment with Defendant County of Alameda. Defendant Leeper is
10 sued in his individual capacity.

11 10. Defendant Anthony DeSousa is, and at all relevant times was, a lieutenant with the
12 ACSO. In doing the things herein alleged, Defendant DeSousa was acting under color of state
13 law and in the course and scope of his employment with Defendant County of Alameda.
14 Defendant DeSousa is sued in his individual capacity, including in his capacity as a supervisor.

15 11. The true names and capacities, whether individual, corporate, associate, or otherwise,
16 of Defendants sued herein as Does 1-50, inclusive, are unknown to Plaintiffs, who therefore sue
17 said defendants by such fictitious names. Plaintiffs will amend this Complaint to show the true
18 names and capacities if and when the same are ascertained. Plaintiffs are informed and believe,
19 and thereon allege, that said Defendants, and each of them, are responsible in some manner for
20 Plaintiffs' damages as herein alleged. Each reference in this complaint to "defendant,"
21 "defendants," "Defendants," or a specifically named defendant also refers to all "Doe"
22 defendants.

23 12. Plaintiffs are informed and believe and thereon allege that each of the Defendants
24 sued herein was negligently, wrongfully, and otherwise responsible in some manner for the
25 events and happenings as hereinafter described, and proximately caused injuries and damages to
26 Plaintiffs. Further, one or more Doe Defendants was at all material times responsible for the
27 hiring, training, supervision, and discipline of other defendants, including the individually named
28 and Doe Defendants.

1 13. Plaintiffs are informed and believe and thereon allege that at all times herein
2 mentioned each of the Defendants, including all defendants sued under fictitious names, was the
3 agent and/or employee of each of the other Defendants, and in doing the things hereinafter
4 alleged, was acting within the course and scope of such agency and employment.

5 14. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants
6 was at all material times an agent, servant, employee, partner, joint venturer, co-conspirator,
7 and/or alter ego of the remaining Defendants, and in doing the things herein alleged, was acting
8 within the course and scope of that relationship. Plaintiffs are further informed and believe, and
9 thereon allege, that each of the Defendants herein gave consent, aid, and assistance to each of the
10 remaining Defendants, and ratified and/or authorized the acts or omissions of each Defendant as
11 alleged herein, except as may be hereinafter otherwise specifically alleged. At all material times,
12 each Defendant was an integral participant, jointly engaged in constitutionally violative,
13 unlawful, and/or tortious activity, resulting in the deprivation of Plaintiffs' constitutional rights
14 and other actionable harm.

15 15. At all material times, each Defendant acted under color of the laws, statutes,
16 ordinances, and regulations of the State of California.

JURISDICTION AND VENUE

18 16. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
19 1343(a)(3)-(4) because it arises under the Constitution and laws of the United States, as it is
20 being brought to obtain compensatory and punitive damages for the deprivation, under color of
21 state law, of the rights of citizens of the United States that are secured by the United States
22 Constitution, pursuant to 42 U.S.C. §§ 1981, 1983 and 1988. This Court has supplemental
23 jurisdiction over the claims arising under California law pursuant to 28 U.S.C. § 1337(a).

24 17. This Court is the proper venue pursuant to 28 U.S.C. § 1331(b)(2) because the events
25 giving rise to the claims occurred in the County of Alameda.

GENERAL FACTUAL ALLEGATIONS

27 18. On the morning of September 20, 2019, Plaintiffs arrived in Castro Valley,
28 California, after having driven overnight from Nevada so that Aasylei and Aaottae could get to

1 their respective college classes. Ms. Loggervale was driving a silver four-door Cadillac that she
 2 had rented. She parked the vehicle in a handicapped parking space, with a visible placard on the
 3 rear-view mirror, near the Starbucks located at 2720 Castro Valley Blvd.

4 19. Plaintiffs were in the vehicle, resting briefly and preparing to go to the Starbucks to
 5 get coffee and use the restroom before the final leg of their drive when Defendants Holland and
 6 Pope approached the vehicle. Defendant Holland first spoke with Ms. Loggervale, who informed
 7 him that she had just gotten into town from Las Vegas. Defendant Holland indicated that there
 8 had been car break-ins in the area and asked Ms. Loggervale for her identification.

9 20. Ms. Loggervale refused to provide Defendant Holland her driver's license and did not
 10 believe she was required to do so. Further, Ms. Loggervale did not want to engage further with
 11 Defendants because, as a Black person, she feared that the encounter could result in serious
 12 physical harm or death to her and/or her daughters. This fear was justified in light of the high
 13 number of documented incidents of police brutality against Black people, even those who are
 14 completely innocent of any crimes.

15 21. Despite Ms. Loggervale's refusal to provide identification, Defendant Holland
 16 persisted in asking her to provide it. Plaintiffs began verbally protesting what they considered to
 17 be harassment by Defendant Holland, and repeatedly asked what basis there was to persist in
 18 questioning them. Plaintiffs also repeatedly stated that they had not done anything wrong and
 19 had no connection whatsoever to any auto burglaries. While Plaintiffs were firm in their verbal
 20 tone, they never screamed or yelled, they never threatened Defendants, and never said or did
 21 anything that would have led a reasonable law enforcement officer to fear for their safety or to
 22 suspect that Plaintiffs committed, or were planning on committing, any crime.

23 22. Soon after the encounter began, Aaotae began video recording the incident on her
 24 cell phone. Later, Aasylei recorded some of the incident as well. Plaintiffs continued to protest
 25 Defendant Holland's persistence in seeking identification and explaining that they had not done
 26 anything wrong. Defendant Holland did not dispute these statements, nor did he offer any reason
 27 to justify a belief to the contrary. Instead, when Aasylei exited the backseat of the vehicle to use
 28 the restroom, Defendant Holland informed the Plaintiffs that they were all being detained. He

1 told Aasylei that if she did not return to the vehicle she would be handcuffed and placed in
2 Defendant Holland's vehicle.

3 23. After Defendant Holland told Plaintiffs they were detained, and threatened to
4 handcuff Aaottae, Plaintiffs continued verbally protesting Holland's actions. Aaottae also exited
5 the vehicle, continued video recording, and demanded to know why Plaintiffs were being
6 detained. Defendants Holland and Pope refused to provide an explanation.

7 24. Shortly after Aaottae exited the vehicle, Defendant Leeper arrived on scene.
8 Defendant Holland told him: "They don't want to listen to us so let's go ahead and detain these
9 two," referring to Aaottae and Aasylei. In response, Defendant Leeper handcuffed Aasylei while
10 Defendant Pope handcuffed Aaottae, who was a minor at the time.

11 25. After Defendants Leeper and Pope handcuffed Aasylei and Aaottae, Defendant
12 Holland physically removed Ms. Loggervale from her vehicle and handcuffed her as well.
13 Defendants forcibly placed all three Plaintiffs into patrol vehicles. Thereafter, one or more
14 Defendants searched Plaintiffs' vehicle, including the trunk, and Plaintiffs' personal belongings,
15 including their purses and cell phones, and took their identifications from their personal
16 belongings.

17 26. Defendants held Plaintiffs handcuffed in the back of Defendants' patrol cars for
18 several minutes. At some point, Aasylei informed Defendant Leeper that she had to use the
19 restroom but he refused to allow her to do so. Eventually, Defendant DeSousa, an ACSO
20 lieutenant, arrived on scene and learned the circumstances surrounding the detentions. However,
21 despite learning that no reasonable suspicion existed to detain Plaintiffs (much less probable
22 cause to arrest), he did not immediately instruct his subordinates to release them. Eventually,
23 however, Defendants released Plaintiffs. Plaintiffs were neither cited for, nor charged with, any
24 crimes.

25 27. As a result of the Defendants' actions, Plaintiffs suffered a deprivation of their rights
26 and liberties, sustained physical injuries, including abrasions to their wrists and arms, and
27 suffered physical pain, mental suffering, emotional distress, fear, embarrassment, and other
28 general damages in an amount to be proven at trial.

1 28. At no time during the encounter with Defendants did Plaintiffs do or say anything
2 that would put a reasonable officer in fear of his or her safety.

3 29. Following the incident, Defendants Holland and Pope claimed in a written incident
4 report that the reason for approaching Plaintiff was that there were auto burglaries in the
5 preceding months at or near the subject location involving possible suspects described as Black
6 males. While Defendants listed other facts in their incident reports that purportedly led them to
7 believe there was something suspicious about Plaintiffs' behavior, those facts were either
8 fabricated or merely pretextual. Even if the facts set forth in the Defendants' reports are true
9 (which Plaintiffs dispute), those facts still did not give rise to a reasonable suspicion to detain
10 Plaintiffs, and certainly did not furnish probable cause to arrest Plaintiffs and search them, their
11 vehicle, and their belongings.

12 30. Plaintiffs are informed and believe, and intend to prove after conducting relevant
13 discovery, that Defendants' actions in detaining and/or arresting Plaintiffs, using force on them,
14 and illegally searching them and their belongings, were motivated largely or entirely by the
15 following (1) Plaintiffs' skin color, (2) Ms. Loggervale's refusal to provide her identification
16 during what started as a consensual encounter, and/or (3) Plaintiffs' verbal protestations of the
17 Defendants' actions and Plaintiffs' accusation that the Defendants were harassing them. Indeed,
18 as shown on the video footage captured by Plaintiffs' cell phones and the video footage Plaintiffs
19 expect to obtain from the Defendants' body cams, Plaintiffs did not do or say anything that
20 would have provided reasonable suspicion or probable cause for the detention and/or arrest and
21 subsequent searches. Therefore, there is a strong inference that the Defendants were in fact
22 motivated by one or more the three factors enumerated above.

23 31. On January 10, 2020, Plaintiffs presented claims to the County of Alameda pursuant
24 to California Government Code Section 910 et seq. On April 1, 2020, the County of Alameda
25 rejected the claims.

26 //

27 //

28 //

FIRST CAUSE OF ACTION

42 U.S.C. Section 1983 – Fourth Amendment

(Against Defendants Holland, Pope, Leeper, DeSousa, and Does 1-25)

32. Plaintiffs refer to paragraphs 1-31 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

33. By the actions and omissions described above, the Defendants, acting under color of state law in their individual capacities, and as integral participants, violated Plaintiffs' rights under the Fourth Amendment to the U.S. Constitution. These deprivations include, but are not limited to:

- a. The right to be free from detention without reasonable suspicion;
- b. The right to be free from arrest without probable cause;
- c. The right to be free from unreasonable search and seizure of property;
- d. The right to be free from excessive force.

34. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of rights described herein, knowingly, maliciously, and with conscious and reckless disregard for whether the rights of Plaintiffs would be violated by their acts and/or omissions. Defendants' acts and/or omissions were the moving force behind, and proximately caused, injuries and damages to Plaintiffs as set forth above.

35. Defendants' conduct entitles Plaintiffs to punitive damages and penalties allowable under 42 U.S.C. § 1983 and California law in an amount sufficient to punish and deter such conduct. No punitive damages are sought against Defendant County of Alameda.

SECOND CAUSE OF ACTION

42 U.S.C. Section 1983 – Fourteenth Amendment

(Against Defendants Holland, Pope, Leeper, and Does 1-25)

36. Plaintiffs refer to paragraphs 1-35 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

37. By the actions and omissions described above, Defendants, acting under color of state law in their individual capacities, and as integral participants, violated Plaintiffs' rights

1 under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.
 2 Defendants intentionally discriminated against Plaintiffs based on the color of their skin.
 3 Defendants would not have harassed, detained, arrested, used force on, and searched Plaintiffs if
 4 they were white. In particular, according to Defendants' own incident reports, one of the facts
 5 upon which they relied in detaining and/or arresting Plaintiffs is that there were previous car
 6 break-ins in the area in which Black males were alleged suspects or involved persons. Choosing
 7 to detain Plaintiffs – three Black *women* – based on alleged actions and/or involvement of Black
 8 *men* is illegal racial profiling and prohibited by the Fourteenth Amendment's Equal Protection
 9 Clause and by California Penal Code Section 13519.4. If the Defendants had been told that white
 10 men were involved in the burglaries in the area, it is virtually certain that Defendants never
 11 would have detained, arrested, or searched three white women who happened to be sitting in
 12 their car in the parking lot.

13 38. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of
 14 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
 15 whether the rights of Plaintiffs would be violated by their acts and/or omissions. Defendants'
 16 acts and/or omissions were the moving force behind, and proximately caused, injuries and
 17 damages to Plaintiffs as set forth above.

18 39. Defendants' conduct entitles Plaintiffs to punitive damages and penalties allowable
 19 under 42 U.S.C. § 1983 and California law in an amount sufficient to punish and deter such
 20 conduct. No punitive damages are sought against Defendant County of Alameda.

21 **THIRD CAUSE OF ACTION**

22 **42 U.S.C. Section 1983 – First Amendment**

23 **(Against Defendants Holland, Pope, Leeper, and Does 1-25)**

24 40. Plaintiffs refer to paragraphs 1-39 of this Complaint and incorporate by reference the
 25 allegations of said paragraphs as though expressly set forth at length at this point.

26 41. By the actions and omissions described above, Defendants, acting under color of
 27 state law in their individual capacities, and as integral participants, violated Plaintiffs' rights
 28 under the First Amendment to the U.S. Constitution. In particular, Defendants retaliated against

1 Plaintiffs for their speech, including their verbal protests and criticisms of the Defendants'
2 actions in investigating, detaining, and arresting Plaintiffs without any basis, and their exercise of
3 their right to refuse to cooperate in what started as a consensual encounter. Plaintiffs also believe
4 Defendants retaliated against them for refusing to cooperate in a consensual encounter, which is
5 also protected activity under the First Amendment.

6 42. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of
7 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
8 whether the rights of Plaintiffs would be violated by their acts and/or omissions. Defendants'
9 acts and/or omissions were the moving force behind, and proximately caused injuries and
10 damages to Plaintiffs as set forth above.

11 43. Defendants' conduct entitles Plaintiffs to punitive damages and penalties allowable
12 under 42 U.S.C. § 1983 and California law in an amount sufficient to punish and deter such
13 conduct. No punitive damages are sought against Defendant County of Alameda.

FOURTH CAUSE OF ACTION

42 U.S.C. Section 1983 – *Monell* and Supervisor Liability

(Against Defendants County of Alameda, DeSousa, and Does 26-50)

17 44. Plaintiffs refer to paragraphs 1-43 of this Complaint and incorporate by reference the
18 allegations of said paragraphs as though expressly set forth at length at this point.

19 45. The unconstitutional actions and/or omissions of Defendants Holland, Pope, Leeper,
20 and Does 1-25 were pursuant to the following customs, policies, practices, and/or procedures of
21 Defendant County of Alameda, and which were directed, encouraged, allowed and/or ratified by
22 policymaking officials with the County of Alameda the ACSO:

23 a. To carry out or tolerate unlawful detentions without reasonable suspicion;

24 b. To carry out or tolerate unlawful arrests without probable cause;

25 c. To carry out or tolerate detentions and arrests based on citizens' refusal to

26 cooperate with consensual encounters;

27 d. To carry out or tolerate detentions and arrests based on citizens' exercise of

28 their First Amendment right to criticize and verbally protest deputies' actions;

- 1 e. To use or tolerate excessive force;
- 2 f. To carry out or tolerate unlawful searches of persons and properties;
- 3 g. To carry out or tolerate discriminatory and biased policing and/or racial
- 4 profiling;
- 5 h. To fail to institute, require, and enforce proper and adequate training,
- 6 supervision, policies, and procedures concerning each of the foregoing practices;
- 7 i. To fail to institute, require, and enforce proper and adequate training,
- 8 supervision, policies, and procedures within the ACSO concerning the fear experienced by Black
- 9 people and other minorities when interacting with law enforcement in light of well documented,
- 10 highly publicized, and disproportionate amount of violence committed by law enforcement
- 11 against said groups, and the tactics that ACSO deputies should employ in dealing with said
- 12 groups in light of such fears (especially where, as here, they have been explicitly made known to
- 13 the deputies);
- 14 j. To ignore and/or fail to properly investigate, supervise, discipline, and/or
- 15 terminate deputies who have engaged in unlawful or unconstitutional law enforcement activity;
- 16 k. To allow deputies to file false police reports.

17 46. Defendant County of Alameda and Does 26-50 failed to properly screen, hire, train,

18 instruct, monitor, supervise, evaluate, investigate, discipline and/or terminate Defendants

19 Holland, Pope, and Leeper, and Does 1-25 with deliberate indifference to Plaintiffs'

20 constitutional rights.

21 47. The unconstitutional actions of Defendants Holland, Pope, Leeper, and Does 1-25

22 were approved, tolerated, and/or ratified by policymaking officers for Defendant County of

23 Alameda and the ACSO.

24 48. The aforementioned customs, policies, practices, and procedures, and the failure to

25 properly screen, hire, train, instruct, monitor, supervise, evaluate, investigate, discipline and

26 terminate, and the unconstitutional approval, ratification and/or toleration of the wrongful

27 conduct of Defendants Holland, Pope, Leeper, and Does 1-25 were a moving force and/or

28 proximate cause of the deprivation of Plaintiffs' clearly established constitutional rights.

1 49. As the supervisor on scene, Defendant DeSousa had an obligation to ensure that his
2 subordinates, including Defendants Holland, Pope, Leeper, and Does 1-25 refrained from
3 violating Plaintiffs' Constitutional rights.

4 50. Because Defendant DeSousa learned and was apprised of the relevant facts
5 surrounding the arrest and/or detention of Plaintiffs, the use of force on Plaintiffs, and the search
6 of their persons and property, and because he knew that such actions were illegal and
7 unconstitutional, Defendant DeSousa was obligated to immediately terminate those
8 unconstitutional actions, and by failing to do so, Defendant DeSousa is liable in his role as a
9 supervisor.

10 51. As a direct and proximate result of Defendants' conduct, Plaintiff suffered injuries
11 and damages as set forth above.

FIFTH CAUSE OF ACTION

42 U.S.C. Section 1981

(Against Defendants Holland, Pope, Leeper, and Does 1-25)

15 52. Plaintiffs refer to paragraphs 1-51 of this Complaint and incorporate by reference the
16 allegations of said paragraphs as though expressly set forth at length at this point.

17 53. In doing the things herein alleged, Defendants intentionally discriminated against
18 Plaintiffs because of their race, thereby depriving them their right to the full and equal benefit of
19 all laws and proceedings for the security of persons and property as is enjoyed by white citizens.

20 54. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of
21 rights described herein, knowingly, maliciously, and with conscious and reckless disregard for
22 whether the rights of Plaintiffs would be violated by their acts and/or omissions. Defendants'
23 acts and/or omissions were the moving force behind, and proximately caused injuries and
24 damages to Plaintiffs as set forth above.

25 55. Defendants' conduct entitles Plaintiffs to punitive damages and penalties allowable
26 under 42 U.S.C. § 1983 and California law in an amount sufficient to punish and deter such
27 conduct. No punitive damages are sought against Defendant County of Alameda.

SIXTH CAUSE OF ACTION

Cal. Civ. Code § 52.1

(Against Defendants County of Alameda, Holland, Pope, Leeper, and Does 1-25)

56. Plaintiffs refer to paragraphs 1-55 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

57. By their acts, omissions, customs, and policies, each Defendant acting in concert/conspiracy, as described above, interfered with, attempted to interfere with, and violated the following rights:

a. the right to be free from unreasonable seizures, detentions without reasonable suspicion, and arrest without probable cause, secured by the Fourth Amendment to the United States Constitution and by Article 1, Section 13 of the California Constitution;

b. the right to be free from unreasonable searches, secured by the Fourth Amendment to the United States Constitution and by Article 1, Section 13 of the California Constitution;

c. the right to be free from excessive force, secured by the Fourth Amendment to the United States Constitution and Article 1, Section 13 of the California Constitution;

d. the right to be free from intentional racial discrimination, secured by the Equal Protection clause of the Fourteenth Amendment to the United States Constitution, Article 1, Sections 7 and 13 of the California Constitution, and 42 U.S.C. Section 1981;

- e. the right to free speech, secured by the First Amendment to the United States Constitution and Article 1, Section 2 of the California Constitution;

f. the right to enjoy and defend life and liberty; acquire, possess, and protect property; and pursue and obtain safety, happiness, and privacy, secured by Article 1, Section 12 of the California Constitution:

g. the right to protection from bodily restraint, harm, or personal insult, secured by California Civil Code Section 43;

- h. the right to be free of racial profiling by law enforcement, secured by California Penal Code Section 13519.4.

58. In doing the things herein alleged, Defendants acted with the particular purpose of depriving Plaintiffs of the enjoyment of the interests protected by the above-listed rights and/or in reckless disregard of these constitutional and statutory rights and guarantees.

59. As a direct and proximate result of Defendants' conduct, Plaintiff suffered injuries and damages as set forth above.

60. Defendant County of Alameda is vicariously liable for the acts and omissions of its employees acting in the course and scope of said employment, pursuant to California Government Code Section 815.2.

61. The conduct of the individual Defendants was malicious and oppressive in that they intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling Plaintiffs to punitive damages pursuant to California Civil Code Sections 52.1 and 3294. No punitive damages are being sought against Defendant County of Alameda.

SEVENTH CAUSE OF ACTION

Cal. Civ. Code § 51.7

(Against Defendants Holland, Pope, Leeper, and Does 1-25)

62. Plaintiffs refer to paragraphs 1-61 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

63. In doing the things herein alleged, Defendants committed violent acts against Plaintiffs by physically restraining them, placing them in handcuffs, and forcibly placing them in patrol vehicles.

64. A motivating reason for Defendants' conduct in committing these violent acts was their perception of Plaintiffs' race.

65. As a direct and proximate result of Defendants' conduct, Plaintiff suffered injuries and damages as set forth above.

66. Defendant County of Alameda is vicariously liable for the acts and omissions of its employees acting in the course and scope of said employment, pursuant to California Government Code Section 815.2.

67. The conduct of the individual Defendants was malicious and oppressive in that they intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling Plaintiffs to punitive damages pursuant to California Civil Code Sections 52(b)(1) and 3294. No punitive damages are being sought against Defendant County of Alameda.

EIGHTH CAUSE OF ACTION

Assault

(Against Defendants County of Alameda, Holland, Pope, Leeper, and Does 1-25)

68. Plaintiffs refer to paragraphs 1-67 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

69. In doing the things herein alleged, Defendants intentionally, and without consent or legal justification, attempted to make a harmful and/or offensive physical contact with Plaintiffs and thereby placed Plaintiffs in fear of an imminent harmful or offensive contact.

70. As a direct and proximate result of Defendants' conduct, Plaintiffs were harmed.

71. Defendant County of Alameda is vicariously liable for the acts and omissions of its employees acting in the course and scope of said employment, pursuant to California Government Code Section 815.2.

72. The conduct of the individual Defendants was malicious and oppressive in that they intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling Plaintiffs to punitive damages pursuant to California Civil Code Section 3294. No punitive damages are being sought against Defendant County of Alameda.

NINTH CAUSE OF ACTION

Battery

(Against Defendants County of Alameda, Holland, Pope, Leeper, and Does 1-25)

73. Plaintiffs refer to paragraphs 1-72 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

74. In doing the things herein alleged, Defendants intentionally, and without consent or legal justification, touched Plaintiffs in a harmful and offensive manner.

75. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered injuries and damages as set forth above.

76. Defendant County of Alameda is vicariously liable for the acts and omissions of its employees acting in the course and scope of said employment, pursuant to California Government Code Section 815.2.

77. The conduct of the individual Defendants was malicious and oppressive in that they intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling Plaintiffs to punitive damages pursuant to California Civil Code Section 3294. No punitive damages are being sought against Defendant County of Alameda.

TENTH CAUSE OF ACTION

False Arrest and Imprisonment

(Against All Defendants)

78. Plaintiffs refer to paragraphs 1-77 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

79. In doing the things herein alleged, Defendants intentionally arrested and/or detained Plaintiffs without a warrant or other legal justification, and in doing so restrained Plaintiffs, handcuffed them, and placed them in patrol cars against their will, thereby depriving them of their freedom of movement.

80. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered injuries and damages as set forth above.

81. Defendant County of Alameda is vicariously liable for the acts and omissions of its employees acting in the course and scope of said employment, pursuant to California Government Code Section 815.2

82. The conduct of the individual Defendants was malicious and oppressive in that they intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and

1 carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling
2 Plaintiffs to punitive damages pursuant to California Civil Code Section 3294. No punitive
3 damages are being sought against Defendant County of Alameda.

4 **ELEVENTH CAUSE OF ACTION**

5 **Invasion of Privacy**

6 **(Against Defendants County of Alameda, Holland, Pope, Leeper, and Does 1-25)**

7 83. Plaintiffs refers to paragraphs 1-82 of this Complaint and incorporates by reference
8 the allegations of said paragraphs as though expressly set forth at length at this point.

9 84. During the incident giving rise to this action, Plaintiffs had a reasonable expectation
10 of privacy in their personal affairs, including the contents of their personal belongings such as
11 vehicles, bags, purses, wallets, pocketbooks, cell phones and other electronic devices.

12 85. In doing the things herein alleged, Defendants intentionally invaded and intruded
13 into Plaintiffs' personal and private affairs by searching their belongings without a warrant or
14 other legal justification.

15 86. Defendants' invasion of Plaintiff's privacy would have been offensive to any
16 reasonable person.

17 87. As a direct and proximate result of Defendants' conduct, Plaintiffs were harmed.

18 88. Defendant County of Alameda is vicariously liable for the acts and omissions of its
19 employees acting in the course and scope of said employment, pursuant to California
20 Government Code Section 815.2.

21 89. The conduct of the individual Defendants was malicious and oppressive in that they
22 intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and
23 carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling
24 Plaintiffs to punitive damages pursuant to California Civil Code Section 3294. No punitive
25 damages are being sought against Defendant County of Alameda.

26 //

27 //

28 //

TWELFTH CAUSE OF ACTION

Negligence

(Against All Defendants)

90. Plaintiffs refer to paragraphs 1-89 of this Complaint and incorporate by reference the allegations of said paragraphs as though expressly set forth at length at this point.

91. The individual Defendants owed Plaintiffs a duty to use reasonable care in connection with the parties' interactions as described herein. In particular, said Defendants had a duty to carefully investigate any criminal activity, to use care to avoid subjecting Plaintiffs to an illegal detention, arrest, use of force, or deprivation of any of the other rights enumerated herein, and to use reasonable care to avoid engaging in biased policing or racial profiling.

92. In doing the things herein alleged, Defendants breached the applicable duty of care by acting unreasonably, carelessly, negligently and/or recklessly.

93. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered injuries and damages as set forth above.

94. Defendant County of Alameda is vicariously liable for the acts and omissions of its employees acting in the course and scope of said employment, pursuant to California Government Code Section 815.2.

95. The conduct of the individual Defendants was malicious and oppressive in that they intended to harm Plaintiffs and deprive them of their rights or their actions were despicable and carried out with a willful and conscious disregard for Plaintiffs' rights and safety, entitling Plaintiffs to punitive damages pursuant to California Civil Code Section 3294. No punitive damages are being sought against Defendant County of Alameda.

PRAYER

Plaintiffs pray for damages as follows:

a. For compensatory damages in an amount according to proof;

b. For punitive damages against Defendants Holland, Pope, Leeper and Does 1-25 in an amount sufficient to punish their conduct and deter similar conduct in the future, pursuant to 42

1 U.S.C. Section 1983 and California Civil Code Sections 52.1, 51.7, 52(b)(1), and 3294 (no
2 punitive damages are sought against Defendant County of Alameda);

3 c. For an additional award of up to three times the amount of compensatory damages,
4 pursuant to California Civil Code Sections 52(a) and 52.1;

5 d. For all applicable statutory penalties, including but not limited to those provided by
6 California Civil Code Sections 51.7, 52, and 52.1;

7 e. For attorneys' fees pursuant to 42 U.S.C. Section 1988, California Civil Code Sections
8 52.1(i) and 52(b)(3), and California Code of Civil Procedure Section 1021.5, and any other
9 applicable authority;

10 f. For costs of suit;

11 g. For such other and further relief as the Court deems just and proper.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a trial by jury.

14
15 Dated: July 13, 2020

16 LAW OFFICE OF JOSEPH S. MAY
17 and
18 GEARINGER LAW GROUP

19
20
21
22
23
24
25
26
27
28

Joseph S. May
By: JOSEPH S. MAY
Attorneys for Plaintiffs